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IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

I.A. No..... of 2013

in

WRIT PETITION (CIVIL) No. 829 of 2013

IN THE MATTER OF:

S.G VOMBATKERE & ANR

Petitioner

versus

UNION OF INDIA

Respondent

AND IN THE MATTER OF :

Union of India

Through Secretary,

Ministry Of Petroleum and Natural Gas Applicant

Shastri Bhawan,

New Delhi.

APPLICATION FOR CLARIFICATION/MODIFICATION OF

ORDER DATED 23.09.2013 UNDER ARTICLE 142 OF THE

CONSTITUTION OF INDIA

To:

The Hon'ble Chief Justice of India and his companion

Justices of the Supreme Court of India

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The humble application of the  
Applicant above named

MOST RESPECTFULLY SHOWETH:-

1. That the Applicant herein is the Ministry of Petroleum and Natural Gas, (MOPNG) and is filing the present application for clarification/ modification of order dated 23.9.2013.
2. That Writ Petition (Civil) No. 494 of 2012 (Justice K Puttaswamy (Retd.) v Union of India) has been filed seeking a mandamus from this Hon'ble Court restraining the Union of India, Planning Commission and the Unique Identification Authority of India (UIDAI) from issuing Aadhar Cards by way of Executive Order dated 28.01.2009.
3. That this Hon'ble Court, in its order dated 23.09.2013 was pleased to direct as follows:-

"In the meanwhile, no person should suffer for not getting the Adhaar card inspite of the fact that some authority had issued a circular making it

mandatory and when any person applies to get the Adhaar Card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant.” .

Annexed herewith and marked as Annexure A-1 (Page 22 to 23) is the copy of order dated 3.9.2013 passed by this Hon'ble Court.

4. that the above order passed by this Hon'ble Court has seriously prejudiced the effective and efficient implementation of a unique welfare scheme which is being implemented by this Ministry, namely, the Direct Benefit Transfer for Liquefied Petroleum Gas Consumers (DBTL Scheme). It is also understood that the interim order passed by this Hon'ble Court has created serious doubts and has had the effect across the country, including in the minds of several million LPG consumers in India who have already enrolled for Aadhaar, regarding the validity and usefulness of Aadhaar. The applicant states that it had introduced the DBTL Scheme on 01.06.2013 in eighteen (18) districts and the same is

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currently in operation in ninety seven (97) districts across the country. The beneficiaries who have to avail of the benefits of the Scheme, as a matter of foolproof identification, are required to possess a unique identification for receiving subsidy.

5. That it may however be clarified that in so far as retail consumers of LPG cylinders are concerned, there is no mandate that they should possess the Aadhaar Card for the purpose of being provided the LPG cylinders from the Oil Marketing Companies (OMCs) at market prices. However, only in respect of those persons seeking subsidy on the supply of market price cylinders up to a ceiling of nine (9) cylinders per annum are required to mandatorily obtain an Aadhaar Card and produce the same in order to avail of the subsidy.

6. That on a close examination of the interim order passed by this Hon'ble Court, this applicant has bona fide interpreted the order of this Hon'ble Court that this Hon'ble Court would have never prevented any person or authority or a Public Sector Undertaking from insisting on

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the Aadhaar Card as an identity for the purpose of providing benefits or subsidies or implementing welfare schemes.

7. That it is re-iterated that retail consumers of LPG cylinders *do not* require the Aadhar card to purchase LPG cylinders from the Oil Marketing Companies (OMCs) at market prices. Only those who are seeking subsidy on supply of market price cylinders (up to nine (9) cylinders per annum) are required to mandatorily obtain an Aadhar card and produce the same in order to avail of the subsidy in the districts where the DBTL is in force.

8. That it is respectfully submitted that Oil Marketing Companies sold around 90 crore subsidized cylinders in 2012-13 to 14 crore consumers – the subsidy burden on LPG alone was Rs.39,558 crores last year. Every household is eligible for only one subsidized connection with 9 cylinders per annum but this has proved to be most difficult to ensure and administer.

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9. That each cylinder which costs Rs.943 (in Delhi) currently carries a subsidy of Rs.555 and is sold at Rs.410.50 - this wide gap in the price at which subsidized cylinder is sold and what it really costs the OMCs leads to diversion of subsidized cylinders into the commercial market by siphoning off subsidized cylinders from genuine and ghost connections.

To stop this diversion

- Cylinders need to be sold at market price so that one cannot appropriate the price difference
- Duplicate LPG connections need to be detected and blocked.

10. That Aadhaar enables this because subsidy is transferred into the bank accounts using Aadhaar while sale happens at market price and duplicate connections can be caught when same Aadhaar number is furnished against multiple connections.

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11. That moreover, the subsidized LPG cylinders are sold under the PDS system as per clause 3 of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 2000 and *each household is allowed only one LPG connection under the Public Distribution System*. Further, every such connection is entitled to receive only nine (9) subsidized cylinders per annum. The OMCs have to detect and prevent consumers from availing multiple benefits for which appropriate strategies have to be devised.

12. That the use of the Aadhar card in the DBTL scheme is in fact in consonance with the order of this Hon'ble Court dated 14.09.2011 in PUCL v Union of India WP(C) No. 161 of 2001 when, in the context of the Public Distribution System to reduce leakages, this Hon'ble Court was pleased to direct that computerization process under the PDS be linked with the Aadhar Registration. The relevant directions are reproduced here in below as follows:



"12. As far as possible, state governments should be directed to link the process of computerization of Component-2 with AADHAR Registration. This will help in streamlining the process of biometric collection as well as authentication. States/UTs may be encouraged to include the PDS related KYR+ field in the data collection exercise being undertaken by various Registrars across the country as part of the UID (Aadhar) enrolment."

"14: Government of India will ensure that the computerization operation is provided necessary infrastructure and financial support. This needs to be completed in a time bound manner and the institution mechanism so created shall be completely responsible for meeting the timelines. Government of India with the help of state government will ensure that the institution

has sufficient infrastructure and finances to complete the computerization in a time bound manner."

13. That the DBTL scheme, by use of the Aadhaar number, which provides a unique identification for every individual, provides a foolproof mechanism to ensure that bogus connections are detected and denied subsidy. It also ensures that the sale of LPG happens at market prices, thereby preventing diversion but simultaneously allows for genuine consumers to avail of the subsidy in their bank accounts. This effectively prevents unscrupulous elements from diverting the public resources for illegal purposes and consequently reduces the subsidy burden on the exchequer.

14. That it is respectfully submitted that the Aadhar number is the best mechanism available to determine identity of a person claiming subsidy in a foolproof and effective manner as Aadhar uses fingerprints/Iris scan which can identify an individual uniquely. Thus, no

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duplicate Aadhaar can be issued or obtained due to biometric de-duplication by UIDAI prior to issue. In other words one person cannot obtain two Aadhaar numbers. Aadhaar number can also be authenticated online, in case of any doubts.

15. That multiple Driving License, Bank Accounts, Ration Cards can be obtained by the same individual. Unlike these documents Aadhaar is issued at the national level after de-duplication. For example, one can have multiple bank accounts in same or different banks. One could have multiple driving licenses. Thus, use of such documents when presented by an individual cannot ensure detection of a prior LPG connection to that individual while issuing new connections. Thus, while the former documents cannot be used to establish the uniqueness of the individual, Aadhaar can be used for uniquely identifying an individual.

16. That although the database of LPG consumers have been digitized, OMCs have been unable to find the duplicate connections in the 14 crore LPG connections

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due to lack of a unique identifier to identify an LPG customer in the LPG database and in view of the challenges of non-uniqueness associated with other documents as explained in para above.

17. That despite this lack of identifier such as Aadhaar, OMCs have in the past attempted to de-duplicate the LPG customer by matching only names and addresses, but have only met with partial success, as people often give names/addresses with different spellings/formats to escape detection by software comparison. This renders detection of duplicates nearly impossible. Further, such an approach requires massive computational effort. OMCs/NIC had to resort to the use of Supercomputer at C-DAC for detecting duplicates under this process. If this exercise were perhaps to be done at the national level it may be unworkable due to the unwieldy time/resource requirements.

18. That with the simple approach of matching name of consumer and address, only 6.3 million connections could be blocked in the past after a nationwide exercise

in which OMCs had initially identified 2.5 crore suspect connections. As OMCs could not be sure whether they were "real" duplicates these consumers were first given a chance to prove their bona fides. All the suspect 2.5 crore consumers had to be mandated to complete the KYC exercise for the OMCs to be able to detect that 6.3 million were duplicates/fake/ghosts. This exercise involved a huge effort on part of OMCs of communication and Know Your Customer norms fulfillment extending over a period of almost an year.

19. That a unique number such as Aadhaar for every customer solves such practical problems in detecting duplicates; as comparison of numbers (which Aadhaar is) can be done easily with minimal computer resources and time. In contrast, with around 5 million Aadhaar numbers that were obtained from the pilot districts after the DBTL scheme, OMCs could easily find the duplicates in no time and at no inconvenience to genuine customers. OMCs have detected additional around 45000 duplicate connections based on Aadhaar. Thus, not only Aadhaar

based approach proved to be more efficient compared to name/address matching, it also saved time and effort and also did not inconvenience any genuine customers. As Aadhaar number is unique across the country, it enables OMCs to ensure that duplicate LPG connections are prevented when people migrate from one location to another.

20. Thus, mandatory use of Aadhaar for those consumers who wish to receive subsidy is the best way to detect and block duplicate existing LPG connections, effectively implement the LPG control order for future connections, check the malpractices of diversion in the LPG supply chain, thereby save precious public resources from being squandered. .

21. Thus, under the DBTL scheme, MOPNG has mandated that Aadhaar number is required to be produced to the LPG distributor and the consumers' bank so that subsidy can be transferred directly into the bank account of the said consumer and ensures that no duplicate/ghost domestic LPG connections can be

obtained and subsidy is disbursed only to those who are entitled, are interested and as per their entitlement and there is no diversion of subsidized cylinders. This enables efficiency and transparency in subsidy administration by use of modern technological advances such as Aadhaar. The Government has instituted the safeguard of seeking Aadhaar in public interest while disbursing subsidy. It is part of establishing the authenticity of the claims of a benefit by an individual.

22. That to ensure that all consumers have sufficient time to do so, a "grace period" of three months from the date of launch of the scheme in the district is provided to all consumers who seek the subsidy in their bank accounts to obtain the Aadhar cards and give them time for "seeding" into the LPG and Bank databases. During the grace period the consumer who is unable to provide Aadhaar is entitled to obtain LPG cylinders at subsidized rates. After the grace period, all consumers have to buy cylinders at market price, but a consumer is entitled to receive the subsidy any time during the financial year

after the grace period for balance entitlement when he submits the Aadhar number. The scheme has been notified for 289 districts so far and Information Education Campaign has commenced in all these districts. The grace period has begun in 97 districts. Of these, the grace period is already over in nineteen (19) districts.

23. That the DBTL scheme has been launched to ensure that the LPG consumers' entitlement is not diverted and to prevent leakage of LPG subsidy. The LPG subsidy amounted to Rupees Thirty Nine Thousand Five Hundred and Fifty Eight crores (Rs. 3,95,58,00,00,000) during the financial year 2012-13. The new system is an effective instrument to prevent diversion, double-benefit, falsification and leakage.

24. That the Aadhar generation in phase I (20 districts) is already over 96% thereby covering the bulk of the population in these districts and statistically would also cover bulk of LPG consumers. Massive Information Education Campaign is being carried out in all the districts and a complex implementation program has



been put in place to implement the DBTL scheme. The response in the 20 districts has been very good.

25. That so far, over one crore (1,00,00,000) subsidy transfer transactions have been done to over 4.5 million LPG consumers amounting to Rupees Five Hundred Crores, (Rs. 500 crores). In phase I nineteen (19) districts where the grace period is over, approximately 77% LPG consumers have submitted their Aadhar numbers to the LPG distributors and 62% have given it both to LPG distributors and banks. The balance LPG consumers may enroll themselves in due course, when they will become eligible to receive the subsidy for balance entitlement during the financial year or may never come forward to enroll as they may not be interested in getting the subsidy or may just be duplicate/fake in which case may never enroll in the scheme.

26. That the preliminary beneficial effects are already visible in terms of detection of duplicate connections in same household with same Aadhaar numbers and

reduction in off take of subsidized LPG in the DBTL districts. For example, the OMCs have detected around forty five thousand (45,000) duplicate connections on the basis of the Aadhar numbers submitted under the scheme so far. Once these duplicate connections are blocked, it would save the exchequer around Rupees Twenty Three crores (Rs. 23,00,00,000) per annum on the assumption that the entitlement of nine cylinders per annum is consumed and each cylinder incurs a subsidy of Rupees Five Hundred and Fifty Five and Fifty Five Paise (Rs. 555.55). Once the scope of the DBTL scheme expands to cover more districts, more such duplicate connections will be detected leading to higher savings of public money.

27. That it is respectfully submitted that keeping in mind the objectives for which the DBTL scheme has been launched and implemented and the necessity of the Aadhar card to ensure its implementation so that the desired goals are achieved, this Hon'ble Court may be pleased to clarify or modify its order dated 23.09.2013 to

state that while no one may be denied domestic LPG cylinders at market rates in the absence of Aadhar cards, the Aadhar card may be allowed to be mandatorily sought as a pre-requisite for making subsidy payments as this will eminently serve public interest by eliminating diversion of subsidized cylinders into black market and prevent duplication, falsification and reduce subsidy burden on public exchequer.

28. That it is thus respectfully submitted that the balance of convenience is in favour of the applicant on the facts of the present case as indicated above. The mandatory requirement of Aadhaar for availing benefits under the DBTL scheme should be presumed to be constitutional and valid until otherwise shown. Irreparable harm could also be caused to the public interest if the present scheme is stayed or its implementation is hampered in any way for the reason that it makes the production of the Aadhar Card mandatory.

PRAYER

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It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to :-

- a) clarify or modify its order dated 23.09.2013 and permit the applicant to continue implementing the DBTL Scheme by requiring the beneficiaries to mandatorily produce the Aadhar card issued by the UIDAI in order to receive the subsidies in accordance with the scheme and
- b) pass such other and further orders as this Hon'ble Court may deem fit and proper.

Drawn by

Filed by

ALOK PRASANNA KUMAR  
Advocate

[D.S. MEHRA]  
Advocate for the Applicant

Filed on 17-10-13

New Delhi

## IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

I.A. No. .... of 2013

in

WRIT PETITION (CIVIL) No. 829 of 2013

IN THE MATTER OF:

S.G VOMBATKERE &amp; ANR

Petitioner

versus

UNION OF INDIA &amp; Ors.

Respondent

AND IN THE MATTER OF :

Union of India

Applicant

## AFFIDAVIT

I, Rajesh Kukreti, S/o Late Shri S.N. Kukreti,  
Under Secretary, Ministry of Petroleum and  
Natural Gas, Shastri Bhawan, New Delhi, do  
hereby solemnly affirm and state as under:-

1. That in my official capacity as mentioned above I am well conversant with the facts and circumstances of the case hence, I am competent to swear this Affidavit.



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2. That I have gone through the contents of accompanying application for clarification/modification, the same has been drafted by my counsel under my instructions and I state that the contents thereof are true and correct.

3. That the Annexure is the true copy of its original.

Ch. 1

DEPONENT.

[illegible]

## VERIFICATION

That the contents of the above paras are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom..

Verified at New Delhi on this 17<sup>th</sup> 4<sup>th</sup> day of  
October 2013.

Ch

DEPONENT

संस्कृत-विभाग, प्रोफेसर  
संस्कृत-विभाग, प्रोफेसर  
संस्कृत-विभाग, प्रोफेसर





## S U P R E M E C O U R T O F I N D I A

## RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 494 CF 2012

JUSTICE K.S.PUTTASWAMY (RETD) &amp; ANR

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(With appln(s) for stay)

WITH T.P. (C) NO. 47-48 of 2013

(With appln(s) for stay and office report)

(Appln. for deletion of the name of petitioner no. 1)

T.P. (C) NO. 476 of 2013

(With appln(s) for stay and office report)

W.P. (C) No. 829 of 2013

(With appln(s) for interim relief and office report)

Date: 23/09/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN

HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. Anil B. Divan, Sr. Adv.

Mr. Ankit Goel, Adv.

Mr. Ranvir Singh, Adv..

Mr. Sanjay Yadav, Adv.

Mr. Anish Kumar Gupta, Adv.

Ms. Deepshikha Bharati, Adv.

Mr. S.S. Shamsbery, Adv.

Mr. Rajeev Kr. Singh, Adv.

Mr. Nachiketa Joshi, Adv.

Mr. P.R. Kovilan Poongkuntran, Adv.

Mrs. Geetha Kovilan, Adv.

Mr. Shyam Divan, Sr. Adv.

Mr. Pratap Venugopal, Adv.

Ms. Meenakshi Chauhan, Adv.

Mr. Varun Singh, Adv.

Mr. Gaurav Nair, Adv.

for M/s. K.J. John &amp; Co.

For Respondent(s)

Mr. Mohan Parasaran, SG

Mr. L. Nageshwar Rao, ASG

Mr. Farrukh Rasheed, Adv.

Mr. Alok Mishra, Adv.

Mr. D.S. Mahra, Adv



UPON hearing counsel the Court made the following  
O R D E R

Issue notice in W.P. (C) No. 829/2013.

Application for deletion of the name of  
petitioner no. 1 in T.P. (C) Nos. 47 of 2013 is  
allowed.

T.P. (C) nos. 47-48 of 2013 and T.P. (C) No.  
476 of 2013 are allowed in terms of the signed  
order.

All the matters require to be heard  
finally. List all matters for final hearing after  
the Constitution Bench is over.

In the meanwhile, no person should suffer  
for not getting the Adhaar card inspite of the fact  
that some authority had issued a circular making it  
mandatory and when any person applies to get the  
Adhaar Card voluntarily, it may be checked whether  
that person is entitled for it under the law and it  
should not be given to any illegal immigrant.

(DEEPAK MANSUKHANI)  
Court Master

(M.S. NEGI)  
Court Master

(Signed order is placed on the file)

